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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,670	09/18/2001	Kevin Collins	10006717	1243

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

KYLE, CHARLES R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/955,670	Applicant(s) COLLINS, KEVIN	
	Examiner Charles Kyle	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/18/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claim 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicants' attorney, Grant Ritz, timely traversed the restriction (election) requirement in the telephone conversation of March 22, 2005 and elected Claims 1-17 for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-13 recite the phrasing "to allow bidders to place bids..." It is unclear whether bids are actually placed and therefore unclear whether the phrasing is limiting.

Claims 14-17 recite the phrasing "allowing a plurality of actual bidders to place bids..." It is unclear whether bids are actually placed by bidders and therefore unclear whether the phrasing is limiting.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8, 10-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,012,045 *Barzilai et al* in view of US 6,692,082 *Hambrecht et al*.

As to Claim 1, see the discussion of Claim 11.

Regarding Claim 2, *Hambrecht* discloses verification that the auction functions in a manner consistent with represented procedures at Col. 9, line 35 to Col. 10, line 29. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Barzilai* with such procedures to establish integrity of an auction.

As to Claims 3 and 4, see the discussion of Claims 1 and 11.

Regarding Claim 5, *Barzilai* discloses removal of simulated bidder data at Summary of the Invention, particularly Col. 2, lines 54-64.

As to Claim 6, see the discussion of Claim 10, limitation (b).

Regarding Claim 8, *Barzilai* discloses an auction server at Fig. 1, ele. 20 and Col. 3, line 47 to Col. 7, line 12, at least.

As to Claim 10, *Barzilai* discloses the invention substantially as claimed, including in a system for an electronically based auction, which is located on an auction site, elements of:

(a) an auction management module (Col. 14line 60 to Col. 17, line 55, at least), located on the auction site (Col. 5, lines 8-40), wherein the auction management module hosts the auction for a seller (Summary of the Invention),

(b) a plurality of actual bidder inputs, associated with the auction management module, to allow actual bidders to place bids in the auction on the auction site (Figs. 4A, 6A; Col. 16, lines 11-23). ;

(c) an auction certification entity module, in communication with the auction management module, to certify an auction taking place on the auction site (Col. 17, line 33-42; Col. 20, lines 29-33); and

(d) simulated bidder data, controlled by the auction auditing module, to submit at least one bid to the auction (Col. 2, lines 54-64; Col. 20, lines 11-28).

While *Barzilai* is clearly concerned with the validity of bid and auction functions, it does not specifically disclose the concept of an audit of an auction. *Hambrecht* discloses the audit of an auction at Col. 3, lines 55-64 and Col. 9, line 9, line 44 to Col. 10, line 25. See also Col. 11, lines 7-10 and Col. 22, line 55-56. Note that *Hambrecht* at Col. 22, line 55-56 is concerned with audit of the same type bid modifications disclosed by *Barzilai* at Col. 16, lines 10-23.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the auction of *Barzilai* with the audit functionality of *Hambrecht* because this would provide assurance to auction participants of the validity of auction results.

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With respect to Claim 11, *Barzilai* discloses bidder data verification at Col. 13, line 27 to Col. 14, line 34 and Col. 16, lines 11-23. See also Col. 19, lines 20-52. Verified selection of a winning bidder is disclosed at Col. 20, lines 11-28.

As to Claim 13, see the discussion of

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,012,045 *Barzilai et al* in view of US 6,692,082 *Hambrecht et al* and further in view of US 2004/0143542 *Magill et al*.

Regarding Claim 7, *Barzilai* discloses the invention substantially as claimed. See the discussion of Claim 1. *Barzilai* does not specifically disclose an audit server hosting an audit function in networked communication with an auction management module. *Magill* discloses this limitation at Fig. 2, ele. 180 and para. 27. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Barzilai* with the audit server disclosed by *Magill* because this would have provide assurance to auction participants of the validity of auction results.

As to Claim 9, *Magill* further discloses hosting of the audit server on an auction server at Fig. 2, ele. 170 and para. 27.

Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,012,045 *Barzilai et al* in view of US 6,692,082 *Hambrecht et al* and further in view of *eBay: Shill Crazy After all These Years*, hereinafter, *eBay*.

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Regarding Claim 12, *Barzilai* discloses the invention substantially as claimed. See the discussion of Claim 10. *Barzilai* does not specifically disclose a module for detection of a skill making bids. *eBay* discloses this limitation at page 2, bracketed text. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Barzilai* with the skill detection module of *eBay* because this would facilitate a fair winning bid value, as is shown desirable by *eBay* at page 1, bracketed text.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,012,045 *Barzilai et al* in view of US 6,692,082 *Hambrecht et al* and further in view of *Auditing, Second Edition*.

As to Claim 14, *Barzilai* discloses the invention substantially as claimed. See the discussion of Claim 1. *Barzilai* does not specifically disclose the use of test data through an auditing module (simulated bidder and related bids) to audit a business process behavior. *Auditing, Second Edition* discloses this limitation at pages 325-327. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the test data audit method of *Auditing, Second Edition* in the method of *Barzilai* because this would correctly identify and process bid transactions and assure that the auction functioned fairly and as intended. See *Auditing, Second Edition* at page 326, last para. to page 327.

As to Claims 15-17, see the discussion of Claims 14 and 11.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk
March 24, 2006

Primary Examiner
Charles Kyle
Art Unit 3624

